

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 1039
PROPOSED SENATE COMMITTEE SUBSTITUTE H1039-CSRBxr-62 [v.1]
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Short Title: Omnibus Occupancy Tax Changes.

(Local)

Sponsors:

Referred to:

May 5, 2016

A BILL TO BE ENTITLED
AN ACT TO INCREASE THE AUTHORIZATION FOR SAMPSON COUNTY OCCUPANCY
TAX; MODIFY THE YADKIN OCCUPANCY TAX; MODIFY THE USE OF THE
PROCEEDS OF THE JACKSONVILLE CITY OCCUPANCY TAX; AUTHORIZE THE
CITY OF SANFORD TO LEVY AN OCCUPANCY TAX; AND TO CREATE A SPECIAL
TAXING DISTRICT IN HARNETT COUNTY AND AUTHORIZE THAT SPECIAL
TAXING DISTRICT TO LEVY AN OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

**PART I. INCREASE THE AUTHORIZATION FOR SAMPSON COUNTY TO LEVY
AN OCCUPANCY TAX**

SECTION 1.1. S.L. 2007-63 reads as rewritten:

"SECTION 1. Occupancy tax. – (a) Authorization and Scope. – The Board of Commissioners of Sampson County may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

"SECTION 1.(a1) Authorization of Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Board of Commissioners of Sampson County may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. Sampson County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

"SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

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"SECTION 1.2. Tourism Development Authority. – (a) Appointment and Membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under subsection (a) of Section 1 of this act, it shall also adopt a resolution creating the Sampson County Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be individuals who are currently active in



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the promotion of travel and tourism in the county. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Sampson County shall be the ex officio finance officer of the Authority.

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PART II. MODIFY THE AUTHORIZATIONS FOR OCCUPANCY TAX LEVIES INSIDE YADKIN COUNTY

SECTION 2.1. Section 2 of S.L. 2007-340 reads as rewritten:

"**SECTION 2.** Yadkin County District Y Created. – Yadkin County District Y is created as a taxing district. Its jurisdiction consists of that part of Yadkin County that is located outside of ~~incorporated areas within the county~~ the Town of Jonesville. Yadkin County District Y is a body politic and corporate and has the power to carry out the provisions of this act. The Yadkin County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the county shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present."

SECTION 2.2. The governing body of Yadkin County District Y and the Yadkin County Board of Commissioners shall adopt any resolutions or modify any adopted resolutions, as needed, to carry out the provisions of this act.

SECTION 2.3. Sections 7 and 8 of S.L. 2007-340 are repealed.

SECTION 2.4. G.S. 160A-215(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all cities that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only to Beech Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia, Goldsboro, Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lake Santeetlah, Lenoir, Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville, Roanoke Rapids, Salisbury, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Bermuda Run, Blowing Rock, Boiling Springs, Boone, Burgaw, Carolina Beach, Carrboro, Cooleemee, Cramerton, Dallas, Dobson, Elkin, Fontana Dam, Franklin, Grover, Hillsborough, Jonesville, Kenly, Kure Beach, Leland, McAdenville, Mocksville, Mooresville, Murfreesboro, North Topsail Beach, Pembroke, Pilot Mountain, Ranlo, Robbinsville, Selma, Smithfield, St. Pauls, Swansboro, Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville Beach, ~~Yadkinville~~, and Yanceyville, and to the municipalities in Avery and Brunswick Counties."

SECTION 2.5. This Part becomes effective July 1, 2016.

PART III. MODIFY THE USE OF OCCUPANCY TAX PROCEEDS FOR THE CITY OF JACKSONVILLE

SECTION 3. Section 1.1(d) of S.L. 2009-429 reads as rewritten:

"**SECTION 1.1.(d)** Distribution and Use of Tax Revenue. – The City of Jacksonville shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Jacksonville Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection for tourism-related expenditures and shall use the remainder to promote travel and tourism in Jacksonville ~~and shall use the remainder for tourism-related expenditures.~~ Jacksonville."

PART IV. AUTHORIZE THE CITY OF SANFORD TO LEVY AN OCCUPANCY TAX

SECTION 4.1. Occupancy Tax. – (a) Authorization and Scope. – The Sanford City Council may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.

SECTION 4.1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 4.1.(c) Distribution and Use of Tax Revenue. – Sanford shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Sanford Tourism Development Authority. The Authority shall use two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Sanford and shall use the remainder for the operation, maintenance, promotion, and renovation of the Dennis A. Wicker Civic Center. Any funds dedicated under this subsection for the Dennis A. Wicker Civic Center that are not spent or obligated by the close of a fiscal year may be used by the Authority for the promotion of travel and tourism in Sanford.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

SECTION 4.2. Sanford Tourism Development Authority. – (a) Appointment and Membership. – When the Sanford City Council adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a city Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city, and at least one-half of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The city council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Sanford shall be the ex officio finance officer of the Authority.

SECTION 4.2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in this act. The Authority shall promote travel, tourism, and conventions in the city and sponsor tourist-related events and activities in the city.

SECTION 4.2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Sanford City Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the city council may require.

SECTION 4.3. G.S. 160A-215(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all cities that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only to Beech Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia, Goldsboro, Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lenoir, Lexington, Lincolnton,

Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville, Roanoke Rapids, Salisbury, Sanford, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Bermuda Run, Blowing Rock, Boiling Springs, Boone, Burgaw, Carolina Beach, Carrboro, Cooleemee, Cramerton, Dallas, Dobson, Elkin, Fontana Dam, Franklin, Grover, Hillsborough, Jonesville, Kenly, Kure Beach, Leland, McAdenville, Mocksville, Mooresville, Murfreesboro, North Topsail Beach, Pembroke, Pilot Mountain, Ranlo, Robbinsville, Selma, Smithfield, St. Pauls, Swansboro, Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, and Yanceyville, and to the municipalities in Avery and Brunswick Counties."

PART V. HARNETT COUNTY OCCUPANCY TAX

SECTION 5.1.(a) District H Created. – Harnett County District H is created as a taxing district. Its jurisdiction consists of all of Harnett County exclusive of the Averagesboro Township. Harnett County District H is a body politic and corporate and has the power to carry out the provisions of this section. The Harnett County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the board of commissioners shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

SECTION 5.1.(b) Authorization and Scope. – The governing body of Harnett County District H may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the district that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales or room occupancy tax.

SECTION 5.1.(c) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if Harnett County District H were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 5.1.(d) Distribution and Use of Tax Revenue. – Harnett County District H shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Harnett County District H Tourism Development Authority. The Harnett County District H Tourism Development Authority shall use at least two-thirds of the proceeds to promote travel and tourism and shall use the remainder for tourism-related expenditures in the district. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Harnett County District H.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the county or to attract tourists or business travelers to the district. The term includes tourism-related capital expenditures.

SECTION 5.2. Harnett County District H Tourism Development Authority. – (a) Appointment and Membership. – When the governing body of Harnett County District H adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Harnett County District H Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the district, and at least one-half of the members must be individuals who are currently active in the promotion of travel and tourism in the district. The governing body shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Harnett County shall be the ex officio finance officer of the Authority.

SECTION 5.2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in this act. The Authority shall promote travel and tourism in the district and make tourism-related expenditures in the district.

SECTION 5.2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Harnett County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

SECTION 5.3. G.S. 153A-155(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all counties and county districts that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Granville, Halifax, Haywood, Henderson, Jackson, Madison, Martin, McDowell, Montgomery, Moore, Nash, New Hanover, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington, and Wilson Counties, to Harnett County District H, New Hanover County District U, ~~to~~ Surry County District S, ~~to~~ Watauga County District U, ~~to~~ Wilkes County District K, ~~to~~ Yadkin County District Y, and ~~to~~ the Township of Averagesboro in Harnett County and the Ocracoke Township Taxing District."

PART VI. EFFECTIVE DATE

SECTION 6. Except as otherwise provided, this act is effective when it becomes law.